

REMARKS/ARGUMENTS

In response to the above-identified Office Action, Applicants respectfully request reconsideration in view of the aforementioned amendment and the following remarks.

Claims 6, 7, 9-12, 25 and 26 are pending in the application. Applicants submit additional claims 27 and 28, which are supported at least at paragraphs 2, 5, 16, 32, 54, 62 and 69 of the application as filed.

I. Claim Rejections - 35 USC § 102

The Examiner rejects Claims 6-7, 10-12, and 25 under 35 U.S.C. 102(a) as being anticipated by U.S. Publication No. 2003/0205364 to Sauciuc et al. (Sauciuc). Claims 6-7, 9-12, and 25-26 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,497,625 to Manz et al. (Manz). Applicants reserve the right to attribute any invention disclosed but not claimed in Sauciuc, in accordance with MPEP § 716.10. It is axiomatic that to be anticipated every limitation of a claim must be disclosed in a single reference.

Applicants disagree with the rejection above of claim 6 for at least the reason that the references do not disclose "determining a presence of a threshold amount of fluid that is within a pump or a compressor; and condensing vapor of the fluid as it is present in the pump or evaporating liquid of the fluid as it is present in the compressor", as required by claim 6.

Embodiments described in the specification of the present application, without limitation thereto, describes determining a presence of a threshold amount of fluid within pump 110 or compressor 210; and condensing vapor of the fluid as it is present in pump 110 or evaporating liquid of the fluid as it is present in compressor 210 (see Figures 1 and 2 of the application).

In the rejection above, the Patent Office relies upon the position that a "pumpless" apparatus that moves fluid reads on the claims because "The specification does not enable pump to be anything more than an apparatus that moves a fluid, as there are no moving parts or identifiable pumping members excluding the pump itself, disclosed." Applicants disagrees, since upon reading the Applicants' application, a

practitioner would find it quite clear that the pump or compressor referred to in the specification is a device having moving parts, such as a device requiring power for operation that is able to force a liquid or vapor through a system, such as a motorized liquid pump or a motorized vapor compressor (see paragraphs 2-7, 16, 32, 54, 56, 62, 65, 69, 71 and 73 of the application and FIGS. 1-2 and 4-7, without limitation thereto).

Specifically, the application refers to "liquid pumps" that "do not pump vapor very well. In fact, liquid pumps that pump vapor generally malfunction and/or break, and thus shorten the lifetime of the pump." (See paragraph 4.) Moreover, such liquid pumps are "more likely to encounter a situation where vapor accumulates inside it after shutdown rather than during normal operation of the pump, since the pump continually pushes liquid through the system." (See paragraph 5). Moreover, embodiments of the liquid pump include an "actuator" capable of pumping fluid through system 400 (see paragraph 54 and FIG. 4), and a liquid pump that may be started by applying power to the pump, such that the actuator starts pumping fluid through a system (see paragraphs 65 and 69 and FIG. 6).

Thus, the Patent Office's interpretation above of the application is unreasonable and inconsistent with usage in the art of the claimed pump.

For example, Sauciuc teaches away from using a pump as described in embodiments of Applicants' specification (see paragraph 4) and as claimed because according to Sauciuc, such pumps require maintenance and commonly break down or leak (see Sauciuc paragraphs 9-13 and 25). Specifically, all of the embodiments in FIGS. 1-4 of Sauciuc include evaporator 14, condenser 18, and heater 22; however, none of them require an actuator or pump such as shown by embodiments having features 410 and 510 of FIGS. 4 and 5 of the application.

Similarly, in contrast to the teaching of the instant application, Manz teaches that vapor pressure drives system 10 so that a refrigerant compressor is eliminated, along with the attendant problems associated with such a compressor (see abstract, col. 1, lines 11-29, and col. 3, lines 58-62).

In addition, by including the claimed pump and condensing, embodiments described in the specification of the present application, for example, without limitation

thereto, provide the benefits of overcoming the problems generally associated with the orientation of pumps or compressors within a system (see paragraphs 56 and 63 of the application). However, the cited references do not describe any of these benefits.

Instead, Sauciuc teaches that orientation, gravitational forces, and Level of liquid coolant 30 are the factors dictating the operation of apparatus 10 (see Sauciuc paragraphs 24, 26 and 30).

Similarly, Manz is dependent upon system orientation and gravitational forces (see Manz col. 3, lines 19-28 and lines 40-46).

Thus, as properly noted by the Patent Office, the cited references teach against a compressor or pump such as claimed in independent 6.

The point above is demonstrated even more so with respect to claims 10-12. For example, in addition to being dependent on allowable base claim 6, Applicants disagree with the rejection above of claim 11 for at least the reason that the reference does not disclose applying power to the pump or compressor after condensing vapor or evaporating liquid as required by claim 11.

On the other hand, Manz uses thermoelectric element 24 to transfer heat from refrigerant within inlet chamber 16 to refrigerant within vaporization chamber 14, and then opening valves 44, 60 to transfer additional liquid refrigerant to chamber 14 (see col. 3, lines 33-62). Thus, if thermoelectric element 24 is providing the "condensing" of claim 6, exactly where is the power being applied to vessel 12?

Similarly, in Sauciuc, if heat source 22 is the heat source corresponding to claim 12, then which part of apparatus 10 is the pump that power is applied to in claim 11?

In addition, by including condensing or evaporating prior to powering on a pump or compressor, embodiments described in the specification of the present application, for example, without limitation thereto, provide the benefits of overcoming the problems generally associated with the orientation of pumps or compressors within a system (see paragraphs 56 and 63 of the application). However, the cited references do not describe any of these benefits.

II. Claim Rejections – 35 USC § 103

The Patent Office rejects claims 9 and 26 under 35 U.S.C. § 103(a) as being unpatentable over Sauciuc in view of U.S. Publication No. 2002/0162339 to Harrison et al. (Harrison). For a claim to be obvious each limitation of that claim must be taught by at least one properly combined reference.

Applicants disagree for at least the reason that, as noted above, Sauciuc does not teach the limitations of claim 1 from which claims 9 and 26 depend.

Harrison fails to cure the deficiencies of the other references. Harrison teaches using thermoelectric cooler 2 to cool a vapor to a condensation point (see paragraph 12). However, the Patent Office has not identified and Applicants are unable to find any teaching in Harrison of the above-noted limitations of claim 6.

Also, it is noted that on the one hand, the Patent Office admits that the references teach a "pumpless" system, while on the other hand, the Patent Office attempts to assert that the references "apply power to the pump or compressor" (see claim 11) of the same "pumpless" system. Clearly, these two positions are inconsistent with each other.

Consequently, the Patent Office has not identified and Applicants are unable to find any disclosure in the references of applying power to the pump or compressor after condensing vapor or evaporating liquid as required by claim 11.

Any dependent claims not mentioned above are submitted as not being anticipated or obvious, for at least the same reasons given above in support of their base claims as well as any limitations of these dependent claims.

Hence, Applicants respectfully request the Patent Office withdraw all of the rejections above.

III. Additional Claims 27 and 28

Applicants submit additional 27 and 28 are allowable for at least the reasons described above in support of their base claim, in addition to other limitations of claims 27 and 28.

Specifically, the cited references teach against a liquid pump to force liquid through a system as required by claim 27 or a vapor compressor to force vapor through a system as required by claim 28.

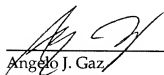
CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being submitted to the United States Patent and Trademark Office electronically via EFS Web on the date shown below.



Robert Fiore

3/21/08

Date